The Town Tea Leaves – Door-to-Door Sales and Solicitation

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Panelists: Sarah Brancatella, Esq. and Katie Hodgdon, Esq.
Link to Recording:
https://us02web.zoom.us/rec/share/eBy1yCViBfhOs7AuuPj4ycrLOMq7xFis7mnhIDJnVioJycX84ZrSrN0LE61AxrLsE9R11iB_6h_4jno

- Solicitor- “a traveling trader, carrying goods about to sell them ... as distinguished from a trader who sells good from a fixed location”
- Door-to-door sales – a form of commercial speech!
- Solicitors are protected under the First Amendment of the United States Constitution – in going door to door selling goods, they are engaging in constitutionally protected speech
  1. While commercial speech is afforded less protection than other forms of speech, it is still entitled to protections
- Why does this matter to towns? Local governments CAN regulate solicitors via a local law (which has the presumption of validity if challenged), but they have to do so in a manner that complies with the Central Hudson test:
  1. The speech being regulated concerns lawful activity and is not misleading;
  2. The asserted governmental interest is substantial;
  3. The local law directly advances the governmental interest asserted; and
  4. The local law is not more restrictive than necessary.
- Applying these principles to door-to-door sales:
  o Door-to-door sales is a lawful activity;
  o The local law should draw upon the town’s authority to exercise its police power to protect the health, safety and welfare of its residents (e.g., preventing crime, protecting the privacy of its residents)
  o The local law has to directly impact the stated governmental interest – so, if the goal is to prevent crime that occurs after certain hours, the town should be prepared to demonstrate statistics that crimes are more likely to occur at that time.
  o The law has to be drafted in the least restrictive way possible – if crime occurs after dusk, limit soliciting to daylight hours (as opposed to set times, as this changes with the seasons).
- Licenses - The town can require all solicitors to register and obtain a license with the town. A fee can be charged to most applicants – the town cannot charge veterans for these fees.
o Note that if it is non-commercial speech, the town cannot charge a fee (unconstitutional)

o Interstate Commerce Clause - if the goods the solicitor is selling are being shipped from out of state, the town cannot charge a fee for the license

• No-Knock Lists - Residents can request to be placed on a no-knock list – solicitors must abide by this list.